

Chris Land, General Counsel (Wyo. Bar #7-6006)
Office of Senator Cynthia M. Lummis
United States Senate
127A Russell Senate Office Building
Washington, DC 20510

Phone: (202) 224-3424
E-Mail: chris_land@lummis.senate.gov

Counsel for Amici Curiae

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

CUSTODIA BANK, INC.,
2120 Carey Avenue, Suite 300
Cheyenne, WY 82001

Plaintiff,

v.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Constitution Avenue NW & 20th St NW
Washington, DC 20551

FEDERAL RESERVE BANK
OF KANSAS CITY,
1 Memorial Drive
Kansas City, MO 64108

Defendants.

Civil Case 1:22-CV-00125-SWS

**MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF
IN SUPPORT OF PLAINTIFF'S MOTION FOR JUDGMENT AS A MATTER OF LAW**

Pursuant to D. Wyo. Local Rule 83.6(d) and Fed. R. App. P. 29, *amici curiae* Senator Cynthia M. Lummis and Representative Warren E. Davidson (“Members of the United States Senate Banking Committee and United States House of Representatives Financial Services Committee”), respectfully request leave to file the attached *amici curiae* brief in support of Plaintiff’s Motion for Judgment as a Matter of Law (ECF 238). It is likely that *amici* satisfy the requirements of Fed. R. App. P. 29(a)(2),¹ however, out of respect for this Court, and as a courtesy to the parties, *amici* are filing this motion for leave. Counsel conferred with the parties regarding the filing of the proposed brief and no objection was heard.

Senator Lummis and Representative Davidson have a distinct constitutional interest in the faithful execution of the laws enacted by Congress and the exercise of Congressional oversight prerogatives over the Federal Reserve System. Additionally, *amici* have a strong legislative interest in promoting responsible financial innovation, including through robust crypto asset regulation and an effective, efficient and safe payments system.

Amici understand this case to be of vital importance to the future of the United States’ financial system, because it will judicially affirm decades of existing precedent under which Defendants respected States’ chartering and risk-management decisions within our dual banking system. Defendants have recently reinterpreted the law to arrogate to themselves power that Congress never granted. *Amici* previously filed a brief in opposition to Defendants’ Motions to Dismiss (ECF 92) in September 2022, and have continued to conduct a detailed analysis of the statutory scheme governing master accounts. In the past months, *amici* have crawled through the bowels of Congressional legislative history and U.S. Supreme Court briefing over the last century

¹ This rule enables an “officer or agency” of the United States to file an *amicus* brief without leave of the court or the consent of the parties.

to uncover new primary source documents which will likely illumine the key issues before this Court.

For these reasons, *amici* respectfully request that the Court grant leave to file an *amici curiae* brief with respect to Plaintiff's Motion for Judgment as a Matter of Law (ECF 238). A proposed order is also attached to this motion.

Submitted respectfully this 18th day of January 2024,

/s/ Chris Land

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Counsel for Amici Curiae

CERTIFICATE OF CONFERRAL

Pursuant to D. Wyo. Local Rule 7.1(b)(1)(A), counsel for *amici* conferred with counsel for both Plaintiff and Defendants on January 17, 2024. No party had an objection to the filing of the brief.

Submitted respectfully this 18th day of January 2024,

/s/ Chris Land

CERTIFICATE OF SERVICE

I hereby certify, on the 18th day of January 2024, a true and correct copy of this motion was served on counsel, via the Court's electronic system, addressed to:

Joshua Paul Chadwick
Katherine Pomeroy
Yonatan Gelblum
Yvonne Facchina Mizusawa
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
20th Street and Constitution Avenue, NW
Washington, DC 20551
202-263-4835
joshua.p.chadwick@frb.gov
katherine.pomeroy@frb.gov
yonatan.gelblum@frb.gov
yvonne.f.mizusawa@frb.gov

Andrew Michaelson
Angela Tarasi
Christine Carletta
Jared Lax
Laura Harris
Jeffrey S. Bucholtz
Joshua Nathaniel Mitchell
KING & SPAULDING LLP
1401 Lawrence Street
Suite 1900
Denver, CO 80202
720-535-2319
720-535-2400
amichaelson@kslaw.com
atarasi@kslaw.com
ccarletta@kslaw.com
jlax@kslaw.com
lharris@kslaw.com
jbucholtz@kslaw.com
jmitchell@kslaw.com

Billie L.M. Addleman
Erin Berry
HIRST APPLGATE LLP
1720 Carey Avenue, Suite 400
PO Box 1083
Cheyenne, WY 82003-1083
307-632-0541
307-632-4999
baddleman@hirstapplegate.com
eberry@hirstapplegate.com

Scott E. Ortiz
WILLIAMS PORTER DAY NEVILLE PC
PO Box 10700
Casper, WY 82602
(307) 265-0700
sortiz@wpgdn.net

John K. Villa
Ryan T. Scarborough
Sarah M. Harris
Jamie Wolfe
Ian M. Swenson
Lauren Weinberger
Russell Mendelson
WILLIAMS & CONNOLLY LLP
680 Maine Avenue SW
Washington, DC 20024
(202) 434-5173
jvilla@wc.com
rscarborough@wc.com
sharris@wc.com
jwolfe@wc.com
iswenson@wc.com
lweinberger@wc.com
rmendelson@wc.com

/s/ Chris Land